

## HOUSE BILL NO. 453

INTRODUCED BY D. WANZENRIED

A BILL FOR AN ACT ENTITLED: "AN ACT TEMPORARILY PROHIBITING ANY TYPE OF ANNEXATION IF AT LEAST 25 PERCENT OF THE PROPERTY OWNERS IN THE AREA TO BE ANNEXED FILE A PETITION OPPOSING ANNEXATION; AMENDING SECTIONS 7-2-4313, 7-2-4314, 7-2-4405, 7-2-4406, 7-2-4501, 7-2-4502, 7-2-4601, 7-2-4606, 7-2-4710, 7-2-4734, AND 7-2-4711, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**NEW SECTION.** **Section 1. Annexation prohibited upon protest of property owners.** Annexation provided for in parts 42 through 47 may not occur if at least 25% of the property owners within an area proposed for inclusion into a municipality file a petition protesting the annexation.

**Section 2.** Section 7-2-4313, MCA, is amended to read:

**"7-2-4313. Contents of notice -- protest period.** (1) The notice under 7-2-4312 must state that:

(1)(a) the resolution has been passed; and

(2)(b) for a period of 20 days after the first publication of the notice, the city or town clerk shall accept written comments approving or disapproving the proposed extensions of the boundaries of the city or town from registered voters residing in the area proposed to be annexed.

(2) Annexation may not occur if the conditions provided in [section 1] are met."

**Section 3.** Section 7-2-4314, MCA, is amended to read:

**"7-2-4314. Hearing on question of annexation -- vote on question of annexation -- resolution of annexation.** (1) (a) The city or town clerk shall, at the next regular meeting of the city or town council after the expiration of the 20-day period provided for in 7-2-4313, forward all written communication received by the clerk for the city or town council's consideration.

(b) Except as provided in [section 1] and subsection (1)(d) of this section, if the city or town council, after considering all written communication, adopts a resolution approving the annexation, the

1 implementation of the resolution must be approved by the vote of the registered voters residing in the area  
2 proposed for annexation. The resolution must state the date on which the proposed annexation is intended  
3 to take effect.

4 (c) Within 45 days of adopting the resolution for annexation, the city or town council shall submit  
5 the question of approving the resolution to the registered voters residing in the area proposed for  
6 annexation. A notice of election must be mailed to all registered voters residing in the area proposed for  
7 annexation.

8 (d) If the area to be annexed contains less than 300 recorded parcels, the city or town council,  
9 after considering all written communication, may adopt a resolution approving the annexation and the  
10 boundaries of the city or town must be extended to include the platted tracts or parcels of land or  
11 unplatted land for which a certificate of survey has been filed. An area annexed pursuant to this subsection  
12 may include land used for railroad purposes. A city or town council may not annex by resolution an area  
13 containing less than 300 recorded parcels if at least 25% of the resolution is disapproved in writing by a  
14 majority of real property owners of the area proposed to be annexed file a petition opposing annexation,  
15 as provided in [section 1]. If the resolution is disapproved by a majority at least 25% of the land owners  
16 landowners, the city or town council may not on its own initiative propose further resolutions relating to  
17 the annexation of the area or any portion of the area, without petition, for a period of 1 year until after  
18 [the termination date of this act].

19 (2) Except as provided in subsection (1)(d), further resolutions relating to the annexation of the  
20 area or any portion of the area may not be considered or acted upon by the council on its own initiative,  
21 without petition, for a period of 5 years from the date of disapproval by the voters as provided in  
22 subsection (1)."

23

24 **Section 4.** Section 7-2-4405, MCA, is amended to read:

25 **"7-2-4405. Notice of resolution -- protest period.** (1) The clerk of the municipality shall ~~forthwith~~  
26 cause to be published in the newspaper nearest ~~such the~~ land being proposed for annexation, at least once  
27 a week for 2 successive weeks, a notice that ~~such a~~ resolution of intent to annex has been ~~duly and~~  
28 ~~regularly~~ passed by the governing body of the municipality and stating the time and place set for the public  
29 hearing on the proposed annexation. ~~and that for a period of~~

30 (2) For 20 days after the first publication of ~~such the~~ notice, ~~such the~~ clerk ~~will~~ shall receive

expressions of approval or disapproval, in writing, of the proposed alterations of the boundaries of the municipality. ~~Said notice shall also state the time and place set for the public hearing on the proposed annexation~~

(3) Annexation may not occur if the conditions provided in [section 1] are met."

**Section 5.** Section 7-2-4406, MCA, is amended to read:

**"7-2-4406. Hearing on question of annexation -- resolution of annexation.** (1) At the time and place set for the ~~aforsaid~~ public hearing on the proposed annexation, the governing body of the municipality shall hear all persons and all things relative to the proposed annexation.

(2) If the conditions provided in [section 1] have not been met and if the governing body ~~shall find~~ finds that it is ~~to~~ in the best interests of the municipality and its inhabitants to annex the land, it shall adopt a resolution of annexation of the land. ~~Said The resolution shall become~~ becomes effective 30 days after its passage and approval, and ~~thereafter~~ after passage and approval, the boundary of ~~said the~~ municipality ~~shall be~~ is as ~~set forth in said~~ provided in the resolution."

**Section 6.** Section 7-2-4501, MCA, is amended to read:

**"7-2-4501. Annexation of wholly surrounded land.** ~~A~~ Except as provided in [section 1], a city may include as part of the city any platted or unplatted tract or parcel of land that is wholly surrounded by the city upon passing a resolution of intent, giving notice, and passing a resolution of annexation. ~~Except as provided in 7-2-4502, the~~ The provisions of 7-2-4312 through 7-2-4314 apply to these resolutions and the notice requirement."

**Section 7.** Section 7-2-4502, MCA, is amended to read:

**"7-2-4502. Protest not available -- temporary exception.** ~~Wholly~~ (1) Except as provided in subsection (2), wholly surrounded land is annexed, if so resolved by the city or town council, ~~whether or not a majority of the real property owners of the area to be annexed object. The question of annexing the wholly surrounded land is not subject to being voted on by the registered voters of the area to be annexed.~~

(2) If the conditions provided in [section 1] are met, annexation may not occur and no further attempts at annexation may be made until after [the termination date of this act]."

1       **Section 8.** Section 7-2-4601, MCA, is amended to read:

2       **"7-2-4601. Annexation by petition.** (1) ~~The~~ Subject to subsection (4), boundaries of any  
3 incorporated city or town may be altered and new areas annexed as provided in this part.

4       (2) The council or other legislative body of a municipal corporation, upon receiving a written  
5 petition for annexation containing a description of the area to be annexed and signed by not less than  
6 33 1/3% of the registered electors of the area proposed to be annexed, shall without delay submit to the  
7 electors of the municipal corporation and to the registered electors residing in the area proposed by the  
8 petition to be annexed the question of whether the area should be made a part of the municipal  
9 corporation.

10       (3) (a) The governing body of a municipality need not submit the question of annexation to the  
11 qualified electors as provided in subsection (2) if it has received a written petition containing a description  
12 of the area requested to be annexed and signed by:

13       (i) more than 50% of the resident electors owning real property in the area to be annexed; or

14       (ii) the owner or owners of 50% of the real property in the area to be annexed.

15       (b) The governing body may approve or disapprove a petition submitted under the provisions of  
16 subsection (3)(a) upon its merits. When the governing body approves the petition, it shall pass a resolution  
17 providing for the annexation.

18       (4) Annexation may not occur if the conditions provided in [section 1] are met."

19  
20       **Section 9.** Section 7-2-4606, MCA, is amended to read:

21       **"7-2-4606. Resolution of annexation.** (1) (a) If it is found that a majority of votes were cast in  
22 favor of the annexation and if the conditions provided in [section 1] are not met, the city or town council  
23 or other legislative body shall, at a regular or special meeting held within 30 days of the election, pass and  
24 adopt a resolution providing for the annexation.

25       (b) The resolution must state that a petition has been filed with the council or other legislative  
26 body with the signatures of 33 1/3% of the resident electors owning real property in the area proposed  
27 to be annexed; a description of the boundaries of the area to be annexed; a copy of the resolution ordering  
28 a general or special election; a copy of the notice of the election; the time and result of the canvass of the  
29 votes received in favor of annexation and the number of votes cast against annexation; and that the  
30 boundaries of the city or town will be extended to include the area described in the petition for annexation.

1 The resolution must be incorporated in the minutes of the council or legislative body.

2 (2) A resolution adopted pursuant to 7-2-4601(3) must include a statement that a petition has  
3 been filed with the governing body containing the signatures of more than 50% of the resident electors  
4 owning real property or the owners of 50% of the area to be annexed; a description of the boundaries of  
5 the area to be annexed; and a statement that the boundaries of the municipality are to be extended to  
6 include the area described in the petition for annexation. The resolution must be incorporated in the  
7 minutes of the governing body. Upon incorporation in the minutes, the resolution must be filed and  
8 becomes effective as provided in 7-2-4607."

9

10 **Section 10.** Section 7-2-4710, MCA, is amended to read:

11 **"7-2-4710. Protest.** (1) For a period of 45 days after the public hearing provided for in 7-2-4707  
12 through 7-2-4709, the governing body of the municipality shall accept written comments approving or  
13 disapproving the proposed annexation from real property owners of the area proposed to be annexed.

14 (2) If a majority 25% of the real property owners disapprove of the proposed annexation ~~in writing~~  
15 in a petition as provided in [section 1], further proceedings under this part relating to the area or any part  
16 of the area proposed to be annexed may not be considered or acted upon by the governing body on its  
17 own initiative, without petition, ~~for a period of 1 year from the date of disapproval~~ until after [the  
18 termination date of this act]."

19

20 **Section 11.** Section 7-2-4734, MCA, is amended to read:

21 **"7-2-4734. Standards to be met before annexation can occur.** ~~A~~ Subject to the provisions of this  
22 part, a municipal governing body may extend the municipal corporate limits to include any area that meets  
23 the following standards:

24 (1) The area must be contiguous to the municipality's boundaries at the time the annexation  
25 proceeding is begun.

26 (2) No part of the area may be included within the boundary of another incorporated municipality.

27 (3) The area must be included within and the proposed annexation must conform to a growth  
28 policy adopted pursuant to Title 76, chapter 1.

29 (4) No part of the area may be included within the boundary, as existing at the inception of the  
30 attempted annexation, of any fire district organized under any of the provisions of part 21, chapter 33,

1 if the fire district was originally organized at least 10 years prior to the inception of attempted annexation.  
2 However, a single-ownership piece of land may be transferred from a fire district to a municipality by  
3 annexation as provided in 7-33-2127."

4

5 **Section 12.** Section 7-2-4711, MCA, is amended to read:

6 **"7-2-4711. Ordinance of annexation.** The municipal governing body shall take into consideration  
7 facts presented at the public hearing and ~~shall have authority to~~ may amend the report required by  
8 7-2-4731 and ~~to~~ may make changes in the plans for serving the area proposed to be annexed ~~so~~ as long  
9 as such changes meet the requirements of 7-2-4731 through 7-2-4733. At any regular or special meeting  
10 held no sooner than 7 days and no later than 60 days following ~~such the~~ public hearing and if the  
11 conditions provided in [section 1] have not been met, the governing body ~~shall have authority to~~ may adopt  
12 an ordinance extending the corporate limits of the municipality to include all or ~~such the~~ part of the area  
13 described in the notice of public hearing ~~which that~~ meets the requirements of 7-2-4734 and 7-2-4735  
14 and ~~which that~~ the governing body has concluded should be annexed."

15

16 NEW SECTION. **Section 13. Codification instruction.** [Section 1] is intended to be codified as an  
17 integral part of Title 7, chapter 2, part 42, and the provisions of Title 7, chapter 2, part 42, apply to  
18 [section 1].

19

20 NEW SECTION. **Section 14. Saving clause.** [This act] does not affect rights and duties that  
21 matured, penalties that were incurred, or proceedings that were begun before [the effective date of this  
22 act].

23

24 NEW SECTION. **Section 15. Coordination instruction.** If [LC 1663] is not passed and approved,  
25 then [this act] is void.

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27 NEW SECTION. **Section 16. Effective date.** [This act] is effective July 1, 2001.

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29 NEW SECTION. **Section 17. Termination.** [This act] terminates October 1, 2003.

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